

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

HODELL-NATCO INDUSTRIES, INC.	)	CASE NO. 1:08 CV 2755
	)	
Plaintiff,	)	JUDGE: LESLEY WELLS
	)	
-vs-	)	<b>RESPONSES TO THE SAP</b>
	)	<b>DEFENDANTS' OBJECTIONS TO</b>
SAP AMERICA, INC., et al.	)	<b>PLAINTIFF'S EXHIBIT LIST</b>
	)	
Defendants.	)	

Plaintiff Hodell-Natco Industries, Inc., through undersigned counsel and pursuant to the Court's Trial Order filed May 1, 2014 [ECF #193] (as modified) and Fed. R. Civ. P. 26(a)(3), responds to the Objections to Hodell's Trial Exhibit List filed by Defendants SAP America, Inc. and SAP AG ("SAP") as follows:

**I. RESPONSES TO CERTAIN GENERAL OBJECTIONS:**

- A. Objections as to Relevance** (Trial Exhibit Nos. 4, 5, 6, 7, 8, 11, 12, 13, 16, 19, 22, 23, 24, 25, 27, 28, 29, 32, 39, 49, 51, 53, 61, 65, 83, 111, 124, 125, 127, 128, 134, 137, 138, 144, 147, 149, 151, 152, 157, 158, 159, 161, 163, 166, 167, 169, 171, 174, 175, 181, 190, 192, 202, 204, 207, 210, 212, 213, 220, 221, 222, 223, 224, 225, 227, 228, 230, 233, 234, 237, 238, 239, 240, 241, 243, 248, 252, 256, 278):

As to any document objected to on Relevance grounds, Hodell submits the Exhibit is relevant to one or more issues in the litigation which include whether Hodell reasonably relied upon information provided by SAP and its business partners in purchasing Business One and related software; whether Business One was suitable for Hodell's business, whether SAP knew or was reckless/negligent in not knowing that Business One could not be successfully deployed in Hodell's environment, whether SAP mislead Hodell into remaining running Business One when it knew the problems Hodell was experiencing could not be fixed, the existence and amount of damages suffered by Hodell, and/or the availability of punitive damages. Hodell submits that these documents have a tendency to make a fact of consequence in this case more or less probable (Fed.R.Evid. 401). Most, if not all of SAP's objections on grounds of relevance go to the weight the jury may credit the exhibit but not to its admissibility.

- B. Objections on Hearsay Grounds** (Trial Exhibit Nos. 4, 5, 7, 8, 10, 13, 16, 19, 22, 23, 24, 25, 26, 27, 28, 29, 32, 39, 47, 48, 53, 55, 59, 65, 83, 100, 101, 111, 116, 127, 128, 134, 135, 147, 149, 151, 152, 154, 157, 158, 159, 161, 169, 171, 192, 198, 199, 202, 207, 211, 212, 213, 214, 220, 221, 223, 224, 225, 227, 231, 232, 233, 234, 243, 256, 276, 278, 280, 281, 285, 292, 293)

As to any objections on hearsay grounds, Hodell submits that it will be able to establish that the Exhibit or information contained therein is not hearsay as defined in Fed.R.Evid. 801 or is admissible for a non-hearsay purpose, or that Hodell will be able to establish the foundation for one or more exceptions to the rule against hearsay under Fed.R.Evid. 803, 804, 805, 806 or 807.

- C. Objections as to Authenticity** (Trial Exhibit Nos. 198, 199, 256, )

As to any objections on authenticity grounds, Hodell submits that either the document was produced by a party in discovery (and therefore is not required to be authenticated) or that Hodell will be able to establish at trial that the document is what Hodell claims it to be under Fed.R.Evid. 901 through one or more witnesses identified on Hodell's Trial Witness List [ECF #210].

- D. Objections as to Personal Knowledge** (Trial Exhibit Nos. 8, 10, 16, 19, 27, 28, 29, 32, 39, 53, 55, 65, 102, 103, 104, 105, 106, 107, 108, 134, 138, 166, 174, 180, 199, 211, 220, 221, 223, 224, 225, 231, 232, 233, 234, 243, 248, 252, 256, 278)

As to any objections to trial exhibits based upon an alleged lack of personal knowledge of persons testifying based upon the exhibit, Hodell submits that it will be able to establish the sufficient personal knowledge of a witness at trial to permit admission of the exhibit through one or more witnesses identified on Hodell's Trial Witness List [ECF #210]. Most, if not all of SAP's objections on grounds of personal knowledge go to the weight the jury may credit the exhibit but not to its admissibility.

- E. Objections Based Upon Motions in Limine Filed by SAP** (Trial Exhibit Nos. 6, 11, 12, 16, 51, 93, 97, 98, 99, 124, 127, 128, 144, 181, 204, 220, 221, 222, 223, 224, 225, 227, 228, 229, 256, 261, 290, )

As to any objections made by SAP in reliance upon Motions *in Limine* filed by it, those Motions have been denied by the Court pursuant to entries dated October 11, 2014. Hodell expressly incorporates by reference its Oppositions to the Motions *in Limine* filed by SAP. [ECF Nos. 235, 236, 237, 239, 241, 242, 243].

- F. Objections to Exhibits Which Require a Foundation**

As to SAP's Objections to each trial exhibit, Hodell submits that it will be able to lay a proper foundation that the document is relevant and admissible through one or more witnesses identified on Hodell's Trial Witness List [ECF #210].

## II. RESPONSES TO SPECIFIC OBJECTIONS

Hodell incorporates by reference its Responses to General Objections stated above. In the interest of judicial economy, Hodell will not restate each such Response with respect to each Trial Exhibit objected to by SAP as set forth below. Additionally, Hodell reserves the right to amend or supplement these Responses at or before trial, and specifically reserves the right to argue for the admissibility of the Exhibits objected to by SAP on additional or different grounds than stated herein. In the event the Court elects to resolve any objections to admissibility outside the context of a trial, Hodell expressly requests leave to supplement these Responses in order to set forth all potential grounds for admissibility.

<u>Number</u>	<u>Description</u>	<u>Deposition Exhibit No.</u>	<u>Bates Number</u>	<u>Response to SAP Objections</u>
4	Jan 2004 FKOM Notes	Dep. Exhibit 33		See Responses to General Objections. Document is relevant to show, <i>inter alia</i> , notice to LSi and to corroborate testimony by LSi representatives regarding Business One capabilities. The jury will not be confused by Mr. Van Leeuwen's testimony and it will not cause any material delay in the proceedings. The document will be offered for non-hearsay purposes and/or will otherwise qualify for one or more exceptions to the hearsay rule.
5	SAP ROI Calculator	Dep. Exhibit 38		See Responses to General Objections. Representatives of LSi will testify that they relied upon Exhibit 38 in representing to Hodell that Business One could support up to 500 users. The document will be offered for non-hearsay purposes and/or will otherwise qualify for one or

				more exceptions to the hearsay rule.
6	May 17, 2005 Letter	Dep. Exhibit 41		See Responses to General Objections and Opposition to Motion <i>in Limine</i> No. 7. Document is relevant to the issue of whether LSi and/or IBIS were acting as an actual or apparent agent of SAP and whether Hodell's reliance was reasonable.
7	Lowery June 8, 2006 Email	Dep. Exhibit 53		See Responses to General Objections. Document is relevant to issue of knowledge of potential implementation issues not disclosed to Hodell, and to whether SAP adequately supervised LSi's activities.
8	Reidl 3/13/07 Email	Dep. Exhibit 60		See Responses to General Objections. Relevant to show knowledge of LSi, and subsequently SAP, of impact non-performing software was having on Hodell. The document will be offered for non-hearsay purposes and/or will otherwise qualify for one or more exceptions to the hearsay rule.
10	Lowery 4/7/07 Email	Dep. Exhibit 67		See Responses to General Objections. See Response regarding Trial Exhibit 8.
11	Ziv 4/12/07 Email	Dep. Exhibit 69		See Responses to General Objections re Motions <i>in Limine</i> , and Hodell's Opposition to SAP's Motion <i>in Limine</i> No. 5.

12	Elliot 4/13/07 Email	Dep. Exhibit 70		See Responses to General Objections re Motions <i>in Limine</i> , and Hodell's Opposition to SAP's Motion <i>in Limine</i> No. 5.
13	Van Leeuwen 7/30/04 Email	Dep. Exhibit 71		See Responses to General Objections. Foundation for exhibit will be apparent through testimony of Mr. Van Leeuwen and Mr. Lowery. The document, and any out-of-court statements contained within the document, will be offered for non-hearsay purposes and/or will otherwise qualify for one or more exceptions to the hearsay rule. Document and internal statements therein may be used to show effect on LSi as to why it proceeded with SAP partnership; document will be used to show that SAP had knowledge of Hodell sales process and statements are made by employee/agents of defendant SAP.
16	Ziv 4/15/07 Email	Dep. Exhibit 77		See Responses to General Objections re Motions <i>in Limine</i> , and Hodell's Opposition to SAP's Motion <i>in Limine</i> No. 5. The document, and any out-of-court statements contained within the document, will be offered for non-hearsay purposes and/or will otherwise qualify for one or more exceptions to the hearsay rule.
19	Kraus 4/25/07 Email	Dep. Exhibit 83		See Responses to General Objections. Document is statements of employees/agents of parties and relevant to show knowledge by LSi/SAP on impact software was having on Hodell's business. Hodell will

				be able to lay foundation at trial.
22	Lowery 6/6/07 Email	Dep. Exhibit 90		See Responses to General Objections. The document, and any out-of-court statements contained within the document, will be offered for non-hearsay purposes and/or will otherwise qualify for one or more exceptions to the hearsay rule.
23	Woodrum 7/14/07 Email	Dep. Exhibit 92		See Responses to General Objections. The document, and any out-of-court statements contained within the document, will be offered for non-hearsay purposes and/or will otherwise qualify for one or more exceptions to the hearsay rule.
24	Lowery 7/27/07 Email	Dep. Exhibit 93		See Responses to General Objections. The document, and any out-of-court statements contained within the document, will be offered for non-hearsay purposes and/or will otherwise qualify for one or more exceptions to the hearsay rule.
25	Lowery 9/5/07 Email	Dep. Exhibit 97		See Responses to General Objections. The document, and any out-of-court statements contained within the document, will be offered for non-hearsay purposes and/or will otherwise qualify for one or more exceptions to the hearsay rule.
26	Lowery 9/14/07 Email	Dep. Exhibit 101		See Responses to General Objections. The document, and any out-of-court statements contained within the document, will be offered for non-hearsay purposes and/or will otherwise qualify for one or more

				exceptions to the hearsay rule.
27	Lowery 9/17/07 Email	Dep. Exhibit 103		See Responses to General Objections. The document, and any out-of-court statements contained within the document, will be offered for non-hearsay purposes and/or will otherwise qualify for one or more exceptions to the hearsay rule. As to relevance and unfair prejudice objections, the jury may decide whether to credit or discredit Mr. Lowery's assessment of the situation, and SAP has not identified undue prejudice that outweighs the relevance of this document. Further, the document is not offered to prove character of SAP.
28	Lowery 9/17/07 Email	Dep. Exhibit 104		See Responses to General Objections. The document, and any out-of-court statements contained within the document, will be offered for non-hearsay purposes and/or will otherwise qualify for one or more exceptions to the hearsay rule. As to relevance and unfair prejudice objections, the jury may decide whether to credit or discredit Mr. Lowery's assessment of the situation, and SAP has not identified undue prejudice that outweighs the relevance of this document. Further, the document is not offered to prove character of SAP. SAP has only objected to a portion of the Exhibit.

29	Sotnick 11/16/07 Email	Dep. Exhibit 109		See Responses to General Objections. The document, and any out-of-court statements contained within the document, will be offered for non-hearsay purposes and/or will otherwise qualify for one or more exceptions to the hearsay rule. Hodell will establish relevance, including the issue of SAP's awareness of Hodell's losses and the admission of SAP's employee/agent that Business One would not work.
32	1/30/06 Notes	Dep. Exhibit 123		See Responses to General Objections. The document, and any out-of-court statements contained within the document, will be offered for non-hearsay purposes and/or will otherwise qualify for one or more exceptions to the hearsay rule.
39	Lowery 3/15/07 Email	Dep. Exhibit 147		See Responses to General Objections. The document, and any out-of-court statements contained within the document, will be offered for non-hearsay purposes and/or will otherwise qualify for one or more exceptions to the hearsay rule.
47	Ashley 12/29/11 Email	Dep. Exhibit 173		See Responses to General Objections. The document, and any out-of-court statements contained within the document, will be offered for non-hearsay purposes and/or will otherwise qualify for one or more exceptions to the hearsay rule. The emails are admissible under Fed.R.Evid. 807. Mr. Ashley was deposed and admitted sending these emails and making the statements reflected in these emails. SAP employee



				Paul Killingsworth admitted to deleting the email sent to him reflected on this Exhibit.
48	Ashley 1/3/12 Email	Dep. Exhibit 174		See Responses to General Objections. The document, and any out-of-court statements contained within the document, will be offered for non-hearsay purposes and/or will otherwise qualify for one or more exceptions to the hearsay rule. The emails are admissible under Fed.R.Evid. 807. Mr. Ashley was deposed and admitted sending these emails and making the statements reflected in these emails.
49	Ashley 1/2/06 Memo	Dep. Exhibit 177		See Responses to General Objections.
51	Ziv 4/25/07 Email	Dep. Exhibit 247		See Responses to General Objections re Motions <i>in Limine</i> and Hodell's Opposition to SAP's already-denied Motion <i>in Limine</i> No. 5.
53	Sotnick 9/24/07 Email	Dep. Exhibit 259		See Responses to General Objections. The document, and any out-of-court statements contained within the document, will be offered for non-hearsay purposes and/or will otherwise qualify for one or more exceptions to the hearsay rule. SAP does not dispute that the Exhibit contains internal communications among SAP employees and/or agents relating specifically to the Hodell Business One implementation and contains admissions of these employee/agents. SAP may

				offer contrary or explanatory evidence at trial but its self-serving explanations do not permit exclusion of relevant evidence.
55	Kraus 10/1/07 Email	Dep. Exhibit 267		See Responses to General Objections. Document is relevant and admissible to show that SAP was aware of Hodell's contention that it was losing money and suffering financial harm during 2007 while running Business One, and therefore relevant to issue of punitive damages and fraud, as Hodell will contend that SAP has knowledge of Hodell's losses but mislead Hodell to remain running Business One anyway; K. Reidl will confirm statements at trial and in any event, statements may be offered other than for their truth. The document, and any out-of-court statements contained within the document, will be offered for non-hearsay purposes and/or will otherwise qualify for one or more exceptions to the hearsay rule. SAP does not dispute that the Exhibit contains internal communications among SAP employees and/or agents relating specifically to the Hodell Business One implementation and contains admissions of these employee/agents. SAP may offer contrary or explanatory evidence at trial but its self-serving explanations do not permit exclusion of relevant evidence.

59	SAP Business One Brief	Dep. Exhibit 314		See Responses to General Objections. The document, and any out-of-court statements contained within the document, will be offered for non-hearsay purposes and/or will otherwise qualify for one or more exceptions to the hearsay rule. Hodell will lay foundation for Trial Exhibit 59 at trial through one or more witnesses identified on its Trial Witness List [ECF #210] and document may be used other than to prove the truth of the statements made therein; i.e., to explain and support why Hodell believed Business One was appropriate for its business.
61	SAP Partner Branding Guide	Dep. Exhibit 425		Relevant to the issue of agency/apparent agency in that SAP authorized resellers such as LSi to use SAP's logo in connection with the reseller's business and that resellers leveraged SAP's name in selling Business One to customers, including Hodell
65	Shamia 9/29/05 Email	Dep. Exhibit 432		Document is subject to one or more exceptions to the hearsay rule and may otherwise be offered for purposes other than for the truth of the matter asserted therein; Document is relevant to show that SAP knew that Business One was being marketed to inappropriate customers and failed to control the activities of its resellers and/or local markets; Statements were made by SAP employees and are being offered against SAP and thus are not hearsay

81	Lowery 9/16/07 Email	Dep. Exhibit 102		See response to Trial Exhibit 27.
83	Kraus 1/31/06 Email	Dep. Exhibit 118		The document, and any out-of-court statements contained within the document, will be offered for non-hearsay purposes and/or will otherwise qualify for one or more exceptions to the hearsay rule. SAP does not dispute that the Exhibit contains communications among SAP and LSi employees and/or agents relating specifically to the Hodell Business One implementation and contains admissions of these employee/agents. Document is relevant to show SAP knowledge of Hodell and size of deal. Relevant to motive.
93	Hodell Financial Statements Years Ended 2010 and 2009		HODL030667-HODL030681	Motion <i>in Limine</i> No. 1 has been denied. Hodell's Opposition to Motion <i>in Limine</i> No. 1 [ECF #233] is expressly incorporated herein.
97	Hodell Financial Statements for the Years Ended 2006 and 2007		HODL030622-HODL030636	Motion <i>in Limine</i> No. 1 has been denied. Hodell's Opposition to Motion <i>in Limine</i> No. 1 [ECF #233] is expressly incorporated herein.
98	Hodell Financial Statements for the Years Ended 2007 and 2008		HODL030637-HODL030651	Motion <i>in Limine</i> No. 1 has been denied. Hodell's Opposition to Motion <i>in Limine</i> No. 1 [ECF #233] is expressly incorporated herein.
99	Hodell Financial Statements for the Years Ended		HODL030652-HODL030666	Motion <i>in Limine</i> No. 1 has been denied. Hodell's Opposition to Motion <i>in Limine</i> No. 1 [ECF #233] is expressly

	2008 and 2009			incorporated herein.
100	Compendium of Hodell Expenses Related to SAP Business One Costs		See attached Exhibit A: Kennedy Report Schedule 8; HODL040000-HODL040401	Documents have been produced to SAP for several years and have been reviewed by SAP's damages expert. Hodell will be able to lay foundation through testimony of witnesses identified on Hodell's Trial Witness List. To the extent SAP is unwilling to stipulate, Hodell reserves the right to enter each invoice/proof of payment as an individual exhibit if ordered to do so by the Court.
101	Compendium of all documents provided to and reviewed by Dr. G. William Kennedy as identified on the attached Exhibit B.			Documents have been produced to SAP for several years and have been reviewed by SAP's damages expert. Hodell will be able to lay foundation through testimony of witnesses identified on Hodell's Trial Witness List. To the extent SAP is unwilling to stipulate, Hodell reserves the right to enter each underlying document as an individual exhibit if ordered to do so by the Court.
102	SAP Business One 2004C Release notes published May 2005			See Responses to General Objections.
103	SAP Business One 2007A Release Notes September 2006			See Responses to General Objections.
104	SAP Business One Statement of Direction January 2009			See Responses to General Objections.

105	SAP Business One Statement of Direction 2007, November 2006, version 2.0 released March 29, 2006			See Responses to General Objections.
106	Presentation by Andreas Wolfinger, SAP AG, Vice President Head of Global Product Management June 2012			See Responses to General Objections.
107	Presentation by Torsten Hopmeier, CIO Weidmüller dated March 2, 2006 “Business One – Entscheidungskriterien und Praxiserfahrungen”			See Responses to General Objections. SAP’s English language document has been waived as SAP had notice of this Exhibit at the time of Mr. Guembel’s deposition and for years thereafter and did not object. Evid.R. 604 has no application to this document.
108	Computer World Article available at <a href="http://www.computerwoche.de/a/weidmueller-laesst-saps-business-one-einfuehren,554731">http://www.computerwoche.de/a/weidmueller-laesst-saps-business-one-einfuehren,554731</a>			See Responses to General Objections. SAP’s English language document has been waived as SAP had notice of this Exhibit at the time of Mr. Guembel’s deposition and for years thereafter and did not object. Evid.R. 604 has no application to this document.
111	SAP Market Strategy Article	Dep. Exhibit 14		Hodell will lay foundation and relevance of document through Daniel Lowery. The document, and any out-of-court statements contained within the document,

				will be offered for non-hearsay purposes and/or will otherwise qualify for one or more exceptions to the hearsay rule.
116	“SAP B1 Effect on Productivity”	Dep. Exhibit 25		See Rule 1006. Underlying data has been produced.
124	SAP Business One informational bulletin	Dep. Exhibit 37		Daniel Lowery testified that he relied upon information contained in Exhibit 37 or documents like it as a basis to believe that Business One would be suitable for Hodell, and thus this information formed the basis for his belief; Hodell will be able to establish one or more exceptions to the hearsay rule at trial, or alternatively, the document will be admitted for purposes other than for proving the truth of the matters asserted therein
125	Compendium of SAP Annual Reports (2004 to present)			SAP is aware of its own annual reports and should not need Hodell to identify them. SAP’s annual reports are identified as a source of information regarding Business One in the Amended Complaint [ECF #26] and the annual reports contain public statements as to Business One. Additionally, the financial information contained within the annual reports is relevant to the issue of punitive damages.
126	SAP Business One Solution Brief (Exhibit A to First Amended Complaint)			See Responses to General Objections.

127	Devereaux 10/1/03 with American Express Edition Attachment (Exhibit B to First Amended Complaint)			Motion in Limine No. 7 has been denied. Hodell incorporates by reference is Opposition to Motion in Limine No. 7 [ECF #243]. Hodell will be able to establish one or more exceptions to the hearsay rule at trial and/or will be able to offer the document for purposes other than for proving the truth of the matter therein; i.e., for explaining why Hodell ultimately made the decision to purchase Business One
128	SAP Business One Whitepaper (Exhibit C to First Amended Complaint)			Motion in Limine No. 7 has been denied. Hodell incorporates by reference is Opposition to Motion in Limine No. 7 [ECF #243]. Hodell will be able to establish one or more exceptions to the hearsay rule at trial and/or will be able to offer the document for purposes other than for proving the truth of the matter therein; i.e., for explaining why Hodell ultimately made the decision to purchase Business One
129	12/20/04 Purchase Order and Invoice (Exhibits E and F to First Amended Complaint)			See Responses to General Objections.
130	SAP B1 Procedure Manual dated October 2006.			This document was produced to SAP as Bates No. HODL996 through HODL1350



134	Email string beginning with J. Woodrum 3-15-07	Dep. Exhibit 64		See Responses to General Objections.
135	Email string with attachment beginning with K. Reidl 3-20-07	Dep. Exhibit 65		Hodell will lay foundation and relevance of document at trial. The document, and any out-of-court statements contained within the document, will be offered for non-hearsay purposes and/or will otherwise qualify for one or more exceptions to the hearsay rule.
137	Email string beginning with Daniel Ferenci starting 3-16-07	Dep. Exhibit 429		See Responses to General Objections.
138	SAP performance requirements definition document	Dep. Exhibit 244		See Responses to General Objections.
144	Email string beginning with Lowery 4-12-07	Dep. Exhibit 78		Motion <i>in Limine</i> No. 5 has been denied. Hodell incorporates by reference its Opposition to that Motion. [ECF #241]
145	Email string beginning with Guagenti 3-13-06	Dep. Exhibit 80		See Responses to General Objections.
147	Email string beginning with K. Reidl 4-25-07	Dep. Exhibit 84		Hodell will lay foundation and relevance of document at trial. The document, and any out-of-court statements contained within the document, will be offered for non-hearsay purposes and/or will otherwise qualify for one or more exceptions to the hearsay rule.

149	Email from Lowery 4-26-07	Dep. Exhibit 86		See Responses to General Objections.
151	Email string beginning with Kraus 7-2-07	Dep. Exhibit 91		See Responses to General Objections.
152	Email string beginning with Lowery 8-3-07	Dep. Exhibit 94		See Responses to General Objections.
154	Email from Lowery 9-5-07	Dep. Exhibit 96		See Responses to General Objections.
157	Email from Dan Lowery 9-14-07	Dep. Exhibit 100		See Responses to General Objections.
158	Email string beginning with M. Sotnick 9-20-07	Dep. Exhibit 105		See Responses to General Objections.
159	Email string beginning with Lowery 9-21-07	Dep. Exhibit 106		See Responses to General Objections.
161	Email from Lowery 9-26-08	Dep. Exhibit 115		See Responses to General Objections.
163	Email string beginning with Gillespie 12-10-07	Dep. Exhibit 447		Hodell will lay foundation and relevance of document at trial. The document, and any out-of-court statements contained within the document, will be offered for non-hearsay purposes and/or will otherwise qualify for one or more exceptions to the hearsay rule. SAP has proposed introducing evidence of other customer implementations [See SAP Opp. to Hodell Motion <i>in Limine</i> re Other “Large Business One Customers.” [ECF #232] and thus should not be permitted to rely upon this objection or its unfounded “subsequent

				remedial measures” objection.
166	SAP performance report 2005-SPI Vs 2005	Dep. Exhibit 451		See Responses to General Objections. Document was produced by SAP near the conclusion of fact discovery and Hodell was deprived of the opportunity to conduct discovery into the document.
167	Email string beginning with Dan Lowery 5-11-07	Dep. Exhibit 455		See Responses to General Objections.
169	Email string beginning with Ovadia 4-9-07	Dep. Exhibit 458		Hodell will lay foundation and relevance of document at trial. The document, and any out-of-court statements contained within the document, will be offered for non-hearsay purposes and/or will otherwise qualify for one or more exceptions to the hearsay rule. SAP has proposed introducing evidence of other customer implementations [See SAP Opp. to Hodell Motion <i>in Limine</i> re Other “Large Business One Customers.” [ECF #232] and thus should not be permitted to rely upon this objection or its unfounded “subsequent remedial measures” objection.
171	Email string beginning with Gillespie 1-14-08 with attachment SAP Business One best practice system setup and sizing	Dep. Exhibit 461		Hodell will lay foundation and relevance of document at trial. The document, and any out-of-court statements contained within the document, will be offered for non-hearsay purposes and/or will otherwise qualify for one or more exceptions to the hearsay rule. SAP has proposed introducing

				evidence of other customer implementations [See SAP Opp. to Hodell Motion <i>in Limine</i> re Other “Large Business One Customers.” [ECF #232] and thus should not be permitted to rely upon this objection or its unfounded “subsequent remedial measures” objection.
174	Email string beginning with Kratus 3-16-07	Dep. Exhibit 254		See Responses to General Objections.
175	Email string with attachment beginning with T. Singleton 10-8-08	Dep. Exhibit 116		See Responses to General Objections.
180	Memo regarding Hodell’s Business One implementation	Dep. Exhibit 132		See Responses to General Objections.
181	Email string beginning with J. Woodrum 4-16-07	Dep. Exhibit 156		See Responses to General Objections re Motions <i>in Limine</i> , and Hodell’s Opposition to SAP’s Motion <i>in Limine</i> No. 5.
190	Email string beginning with Van Leeuwen 2-9-06	Dep. Exhibit 50		See Responses to General Objections.
192	Email string beginning with P. Killingsworth 9-13-07	Dep. Exhibit 42		Hodell will lay foundation and relevance of document at trial. The document, and any out-of-court statements contained within the document, will be offered for non-hearsay purposes and/or will otherwise qualify for one or more exceptions to the hearsay rule.

194	Hodell purchase order from IBIS 12-20-04	Dep. Exhibit 45		
198	SAP In-Flight development and Hodell-Natco implementation 3-16-06	Dep. Exhibit 121		See Responses to General Objections. Hodell will lay foundation and relevance of document at trial. The document, and any out-of-court statements contained within the document, will be offered for non-hearsay purposes and/or will otherwise qualify for one or more exceptions to the hearsay rule.
199	Power Point beginning with Dan Carr, CDI	Dep. Exhibit 175		See Responses to General Objections.
202	Email string beginning with Killingsworth 4-10-07	Dep. Exhibit 403		Hodell will lay foundation and relevance of document at trial. The document, and any out-of-court statements contained within the document, will be offered for non-hearsay purposes and/or will otherwise qualify for one or more exceptions to the hearsay rule. SAP has proposed introducing evidence of other customer implementations [See SAP Opp. to Hodell Motion <i>in Limine</i> re Other “Large Business One Customers.” [ECF #232] and thus should not be permitted to rely upon this objection or its unfounded “subsequent remedial measures” objection.
204	Email attachment from Dal Van Leeuwen – SAP Business One – In Flight Enterprise	Dep. Exhibit 296		See Responses to General Objections re Motions <i>in Limine</i> , and Hodell’s Opposition to SAP’s Motion <i>in Limine</i> No. 6.

	Development Map			
207	Email string beginning with Brian Jamieson 3-7-07	Dep. Exhibit 182		Hodell will lay foundation and relevance of document at trial. The document, and any out-of-court statements contained within the document, will be offered for non-hearsay purposes and/or will otherwise qualify for one or more exceptions to the hearsay rule. SAP has proposed introducing evidence of other customer implementations [See SAP Opp. to Hodell Motion <i>in Limine</i> re Other “Large Business One Customers.” [ECF #232] and thus should not be permitted to rely upon this objection or its unfounded “character evidence” objection.
209	Email string beginning with Rodion Pronin 3-13-07	Dep. Exhibit 184		
210	Email string beginning with Lowery 3-13-07	Dep. Exhibit 185		See Response to Objection to Trial Exhibit 8.
211	Email string beginning with Woodrum 3-12-07	Dep. Exhibit 186		See Responses to General Objections. Hodell will lay foundation and relevance of document at trial. The document, and any out-of-court statements contained within the document, will be offered for non-hearsay purposes and/or will otherwise qualify for one or more exceptions to the hearsay rule.

212	Email string with top from D. Boessmann 3-16-07	Dep. Exhibit 254		Hodell will lay foundation and relevance of document at trial. The document, and any out-of-court statements contained within the document, will be offered for non-hearsay purposes and/or will otherwise qualify for one or more exceptions to the hearsay rule. SAP has proposed introducing evidence of other customer implementations [See SAP Opp. to Hodell Motion <i>in Limine</i> re Other “Large Business One Customers.” [ECF #232] and thus should not be permitted to rely upon this objection or its unfounded “character evidence” objection.
213	Email string with top from M. Sotnick 4-16-07	Dep. Exhibit 255		See Responses to General Objections. Hodell will lay foundation and relevance of document at trial. The document, and any out-of-court statements contained within the document, will be offered for non-hearsay purposes and/or will otherwise qualify for one or more exceptions to the hearsay rule.
214	Email string with top from M. Sotnick 10-1-07	Dep. Exhibit 261		See Responses to General Objections. Hodell will lay foundation and relevance of document at trial. The document, and any out-of-court statements contained within the document, will be offered for non-hearsay purposes and/or will otherwise qualify for one or more exceptions to the hearsay rule.

220	SAP Business One 'Sweet Spot' overview for partners	Dep. Exhibit 240		See Responses to General Objections and Responses re Motions <i>in Limine</i> , and Hodell's Opposition to SAP's Motion <i>in Limine</i> No. 5. Hodell will lay foundation and relevance of document at trial. The document, and any out-of-court statements contained within the document, will be offered for non-hearsay purposes and/or will otherwise qualify for one or more exceptions to the hearsay rule.
221	Email from Gilad Gruber 4-18-05	Dep. Exhibit 241		See Responses to General Objections. Hodell will lay foundation and relevance of document at trial. The document, and any out-of-court statements contained within the document, will be offered for non-hearsay purposes and/or will otherwise qualify for one or more exceptions to the hearsay rule. See Responses to General Objections re Motions <i>in Limine</i> , and Hodell's Opposition to SAP's Motion <i>in Limine</i> No. 5.
222	Power Point titled 'Update on B1 Business Cases'	Dep. Exhibit 242		See Responses to General Objections and Responses re Motions <i>in Limine</i> , and Hodell's Opposition to SAP's Motion <i>in Limine</i> No. 5. Hodell will lay foundation and relevance of document at trial. SAP admits the document pre-dates the Hodell implementation and therefore is not a "subsequent" remedial measure, and in any even can be used for purposes other than to prove negligence.



223	Power Point titled 'SAP Business One 2006 Plan' 12-13-05	Dep. Exhibit 243		See Responses to General Objections. Hodell will lay foundation and relevance of document at trial. The document, and any out-of-court statements contained within the document, will be offered for non-hearsay purposes and/or will otherwise qualify for one or more exceptions to the hearsay rule. See Responses to General Objections re Motions <i>in Limine</i> , and Hodell's Opposition to SAP's Motion <i>in Limine</i> No. 5.
224	Power Point titled 'B1 Performance requirements document version 1.0' 1-4-06	Dep. Exhibit 244		See Responses to General Objections. Hodell will lay foundation and relevance of document at trial. The document, and any out-of-court statements contained within the document, will be offered for non-hearsay purposes and/or will otherwise qualify for one or more exceptions to the hearsay rule. See Responses to General Objections re Motions <i>in Limine</i> , and Hodell's Opposition to SAP's Motion <i>in Limine</i> No. 5.
225	Email from Kraus 4-13-07	Dep. Exhibit 245		See Responses to General Objections. Hodell will lay foundation and relevance of document at trial. The document, and any out-of-court statements contained within the document, will be offered for non-hearsay purposes and/or will otherwise qualify for one or more exceptions to the hearsay rule.

227	Power Point titled 'Quality Gate, planning to development' 1-12-06	Dep. Exhibit 248		See Responses to General Objections. Hodell will lay foundation and relevance of document at trial. The document, and any out-of-court statements contained within the document, will be offered for non-hearsay purposes and/or will otherwise qualify for one or more exceptions to the hearsay rule. See Responses to General Objections re Motions <i>in Limine</i> , and Hodell's Opposition to SAP's Motion <i>in Limine</i> No. 5.
228	Power Point titled 'Moving B1 Forward' 3-17-06	Dep. Exhibit 250		See Responses to General Objections re Motions <i>in Limine</i> , and Hodell's Opposition to SAP's Motion <i>in Limine</i> No. 5.
229	Email from Gadi Shamia 3-13-06	Dep. Exhibit 251		See Responses to General Objections re Motions <i>in Limine</i> , and Hodell's Opposition to SAP's Motion <i>in Limine</i> No. 5.
230	Dale VanLeeuwen subpoena for deposition	Dep. Exhibit 290		Hodell will withdraw this exhibit
231	Email string beginning with Eric Johnson 3-16-07	Dep. Exhibit 187		See Responses to General Objections. Hodell will lay foundation and relevance of document at trial. The document, and any out-of-court statements contained within the document, will be offered for non-hearsay purposes and/or will otherwise qualify for one or more exceptions to the hearsay rule.

232	Email string beginning with Lowery (forward of msg. sent 4-11-07 to Udi) 4-12-07	Dep. Exhibit 188		See Responses to General Objections. Hodell will lay foundation and relevance of document at trial. The document, and any out-of-court statements contained within the document, will be offered for non-hearsay purposes and/or will otherwise qualify for one or more exceptions to the hearsay rule.
233	Email string beginning with Lorenzo Zecca 4-16-07	Dep. Exhibit 189		See Responses to General Objections. Hodell will lay foundation and relevance of document at trial. The document, and any out-of-court statements contained within the document, will be offered for non-hearsay purposes and/or will otherwise qualify for one or more exceptions to the hearsay rule.
234	Email from Anatoliy Boyko to Rodion Pronin and Ross Elliot dated 4-26-07	Dep. Exhibit 191		See Responses to General Objections. Hodell will lay foundation and relevance of document at trial. The document, and any out-of-court statements contained within the document, will be offered for non-hearsay purposes and/or will otherwise qualify for one or more exceptions to the hearsay rule.

237	2003 SAP Annual Report	Dep. Exhibit 400		See Response to Trial Exhibit 125
238	2004 SAP Annual Report	Dep. Exhibit 421		See Response to Trial Exhibit 125
239	2005 SAP Annual Report	Dep. Exhibit 422		See Response to Trial Exhibit 125
240	2006 SAP Annual Report	Dep. Exhibit 423		See Response to Trial Exhibit 125
241	2007 SAP Annual Report	Dep. Exhibit 424		See Response to Trial Exhibit 125
243	Email string with 7/6/07 email from Lowery to Woodrum	Dep. Exhibit 152		See Responses to General Objections. Hodel will lay foundation and relevance of document at trial. The document, and any out-of-court statements contained within the document, will be offered for non-hearsay purposes and/or will otherwise qualify for one or more exceptions to the hearsay rule.
248	SAP Business One Bullet Points	Dep. Exhibit 434		See Responses to General Objections.
252	SAP Testing Observations	Dep. Exhibit 452		See Responses to General Objections.

256	O. Reidl Phone Call Notes with Dale Van Leeuwen Sept. 6, 2007		HODL00088	See Responses to General Objections. See Responses to General Objections re Motions <i>in Limine</i> , and Hodell's Opposition to SAP's Motion <i>in Limine</i> No. 6.
261	Hodell Reviewed Financial Statements 1998-2010			SAP has not articulated a specific objection to this Exhibit. Hodell has had documents labeled as Hodell's Reviewed Financial Statements for various years since the infancy of discovery. To the extent SAP is unwilling to stipulate to the accuracy of any underlying financial data to be relied upon at trial, Hodell reserves the right to introduce these documents either as a compendium exhibit or as individual exhibits to the extent it is ordered to do so by the Court. See Responses to General Objections re Motions <i>in Limine</i> , and Hodell's Opposition to SAP's Motion <i>in Limine</i> No. 1.
262	Hodell Monthly Income Statements 2002-2009			SAP has not articulated a specific objection to this Exhibit. Hodell has had documents labeled as Hodell's Monthly Income Statements for various years since the infancy of discovery. To the extent SAP is unwilling to stipulate to the accuracy of any underlying financial data to be relied upon at trial, Hodell reserves the right to introduce these documents either as a compendium exhibit or as individual exhibits to the extent it is ordered to do so by the Court. See Responses to

				General Objections re Motions <i>in Limine</i> , and Hodell's Opposition to SAP's Motion <i>in Limine</i> No. 1.
276	E-mail, 3/27/07, from Jon Woodrum to Paul Killingsworth and others	Dep. Exhibit 229		See Responses to General Objections. Hodell will lay foundation and relevance of document at trial. The document, and any out-of-court statements contained within the document, will be offered for non-hearsay purposes and/or will otherwise qualify for one or more exceptions to the hearsay rule.
277	Elliot email to Krantz and others, 4/25/07	Dep. Exhibit 190		See Responses to General Objections. Hodell will lay foundation and relevance of document at trial. The document, and any out-of-court statements contained within the document, will be offered for non-hearsay purposes and/or will otherwise qualify for one or more exceptions to the hearsay rule.
278	Elliot email to Krenke and others, 5/22/07	Dep. Exhibit 192		See Responses to General Objections. Hodell will lay foundation and relevance of document at trial. The document, and any out-of-court statements contained within the document, will be offered for non-hearsay purposes and/or will otherwise qualify for one or more exceptions to the hearsay rule.

280	All documents relied upon by Dr. G. William Kennedy as identified in his Expert Report			Documents have been produced to SAP for several years and have been reviewed by SAP's damages expert. Hodell will be able to lay foundation through testimony of witnesses identified on Hodell's Trial Witness List. To the extent SAP is unwilling to stipulate, Hodell reserves the right to enter each underlying document as an individual exhibit if ordered to do so by the Court.
281	All documents relied upon by Helmuth Guembel as identified in his Expert Report			See Response to Objections to Trial Exhibits 102 to 108.
285	All documents provided to and relied upon by the SAP Defendants' Expert witnesses			Documents have been produced to SAP for several years and have been reviewed by SAP's damages expert. Hodell will be able to lay foundation through testimony of witnesses identified on Hodell's Trial Witness List. To the extent SAP is unwilling to stipulate, Hodell reserves the right to enter each underlying document as an individual exhibit if ordered to do so by the Court.
286	All financial records and documentation pertaining to Hodell-Natco Industries, Inc. produced by Plaintiff			Documents have been produced to SAP for several years and have been reviewed by SAP's damages expert. Hodell will be able to lay foundation through testimony of witnesses identified on Hodell's Trial Witness List. To the extent SAP is unwilling to stipulate, Hodell reserves the right to enter each underlying document as an individual exhibit if ordered to

				do so by the Court.
287	All spreadsheets relating to Plaintiff's damages previously produced and, to the extent necessary, all underlying financial records relating to such spreadsheets			Documents have been produced to SAP for several years and have been reviewed by SAP's damages expert. Hodell will be able to lay foundation through testimony of witnesses identified on Hodell's Trial Witness List. To the extent SAP is unwilling to stipulate, Hodell reserves the right to enter each underlying document as an individual exhibit if ordered to do so by the Court.
288	All documents produced pursuant to subpoena by Accellos (including ACC0001 to ACC000422)			Hodell reserves this Exhibit for purposes of impeachment on cross-examination and/or for rebuttal evidence should the need arise.
289	To the extent necessary, any and all documents produced by Defendants SAP America, Inc. and SAP AG in discovery			Hodell reserves this Exhibit for purposes of impeachment on cross-examination and/or for rebuttal evidence should the need arise.
290	To the extent necessary, any and all documents produced by Defendants LSi-Lowery Systems, Inc. and the IBIS Group, Inc. in discovery			Hodell reserves this Exhibit for purposes of impeachment on cross-examination and/or for rebuttal evidence should the need arise.



291	To the extent necessary, any and all documents produced by Plaintiff Hodell-Natco Industries, Inc. in discovery			Hodell reserves this Exhibit for purposes of impeachment on cross-examination and/or for rebuttal evidence should the need arise.
292	Expert Report of Dr. G. William Kennedy and supporting exhibits and schedules			See Responses to General Objections. Hodell will lay foundation and relevance of document at trial. The document, and any out-of-court statements contained within the document, will be offered for non-hearsay purposes and/or will otherwise qualify for one or more exceptions to the hearsay rule.
293	Expert Report of Helmuth Guembel and supporting exhibits and schedules			See Responses to General Objections. Hodell will lay foundation and relevance of document at trial. The document, and any out-of-court statements contained within the document, will be offered for non-hearsay purposes and/or will otherwise qualify for one or more exceptions to the hearsay rule.

Respectfully submitted,

/s/ P. Wesley Lambert

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 14<sup>th</sup> day of October 2014, a copy of the foregoing was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system. A copy of these pleadings will also be emailed and sent by regular U.S. Mail to the following parties:

**LSI-Lowery Systems, Inc.**

c/o Chris Kellett

cpk@carmodymacdonald.com

**IBIS Group, Inc**

1800 W. Hawthorne Lane, Suite N

W. Chicago, IL 60185

/s/ P. Wesley Lambert

P. WESLEY LAMBERT (0076961)